

State of California
Department of Resources Recycling and Recovery

Public Hearing to Consider
The Completion of Compliance Order IWMA BR09-002
For the City of Greenfield, County of Monterey

September 20, 2011
10:00 am
Byron Sher Auditorium

I. ISSUE

The City of Greenfield (City) has reported to the Department of Resources Recycling and Recovery (CalRecycle) its successful completion of all the requirements stipulated in Compliance Order IWMA BR09-002 (Compliance Order; Attachment 1). The City presented its progress through its 2009 annual report and its quarterly reports required by the Compliance Order. In addition, CalRecycle staff has conducted several site visits to the City to verify program implementation. Staff's most recent site visit was in June 2011 (see Attachment 2).

Public Resources Code 41850 and the Compliance Order require CalRecycle to hold a public hearing to determine if the City has complied with all of the conditions and requirements of the Compliance Order.

II. ITEM HISTORY

On February 24, 2009, the California Integrated Waste Management Board (predecessor of the Department of Resources Recycling and Recovery [CalRecycle]) issued Compliance Order IWMA BR09-002 to the City of Greenfield. The issuance was based on the City's failure to adequately implement its diversion programs.

On February 11, 2010, CalRecycle's Deputy Director, Waste Compliance and Mitigation Program, granted the City's request to extend the deadline of the Compliance Order's Local Implementation Plan from February 28, 2010, to May 31, 2010. This approval also extended the one-year monitoring period following full LIP implementation to May 31, 2011.

III. OPTIONS FOR CONSIDERATION

1. Find that the City of Greenfield has fully implemented the requirements of Compliance Order IWMA BR09-002.
2. Direct staff to modify Compliance Order IWMA BR09-002 to reflect additional programs that the City of Greenfield would need to implement. With this option,

CalRecycle would also need to extend the overall timeframe of the Compliance Order.

3. Find that the City of Greenfield is non-compliant for failing to meet the requirements of the Compliance Order. With this option, staff would need to be directed to schedule a public hearing to consider fining the City for failing to comply with the Compliance Order.

IV. STAFF RECOMMENDATION

Staff recommends Option 1: Find that the City of Greenfield has fully implemented the requirements of Compliance Order IWMA BR09-002.

Approving the completion of the City's Compliance Order will commence the transfer of the City from the Jurisdiction and Product Compliance Unit back to the Local Assistance and Market Development Branch. The Local Assistance and Market Development Branch will review the City in the next two-year cycle, which commences with the submission of the 2013 annual report, and will continue to monitor the City's program implementation. This will provide the Department with the ability to monitor the City's overall efforts of continued program implementation. This does not impact the Department's ability to exercise its option to review the City's efforts at any time, should an independent compliance review by the Jurisdiction and Product Compliance Unit be warranted (PRC Section 41825(b)).

V. ANALYSIS

On February 24, 2009, CalRecycle issued Compliance Order IWMA BR09-002 to the City of Greenfield due to the City's failure to adequately implement its diversion programs.

The Compliance Order [Section 3.1] required the City to submit a Local Implementation Plan (LIP) by April 30, 2009, and fully implement the LIP by February 28, 2010. The Compliance Order also stipulated that CalRecycle would monitor the City to ensure continued LIP implementation from February 28, 2010, through February 28, 2011.

On December 3, 2009, the City submitted an official written request to extend the deadline of the Compliance Order's Local Implementation Plan from February 28, 2010, to May 31, 2010. On February 11, 2010, CalRecycle's Deputy Director, Waste Compliance and Mitigation Program, granted the City's request. This approval also extended the one-year monitoring period following full LIP implementation to May 31, 2011.

The City adopted and implemented its LIP (Attachment 3), and CalRecycle staff monitored the City's progress to ensure full LIP implementation by May 31, 2010. As required, CalRecycle staff continued oversight monitoring to evaluate and determine program effectiveness. This monitoring continued through June 2011, when CalRecycle staff made its final compliance verification site visit.

Existing Jurisdiction Conditions:

The City of Greenfield was incorporated in 1947. The City is a Monterey County community encompassing 2.135 square miles. According to Department of Finance estimates, in 2009 the City had a population of 17,547.

Key Jurisdiction Conditions				
Calculated Disposal Rate (Lbs/person/day)		Waste Stream Data		
<i>50% per Capita Disposal Target (2006)</i>	<i>2009</i>	<i>Population (2009)</i>	<i>Non-Residential Waste Stream Percentage</i>	<i>Residential Waste Stream Percentage</i>
2.3	2.1	17,547	65	35

Staff's Assessment

After analyzing the City's reports and monitoring the City's program development, CalRecycle staff believes that the City has implemented all programs incorporated into the Local Implementation Plan (LIP) that resulted from Compliance Order IWMA BR09-002. As program improvements continue, further diversion increases can be expected. The City intends to implement, monitor, and improve all its LIP and Source Reduction and Recycle Element (SRRE) programs, as necessary.

The following table summarizes the City's progress to date for each LIP program:

Local Implementation Plan Program Requirements	Progress to Date
<i>Commercial Diversion Program</i>	<p><i>Implemented.</i></p> <p>The joint powers authority, Salinas Valley Solid Waste Authority (SVSWA), had been considering the adoption of an ordinance for mandatory commercial recycling in all areas that it services, including the City of Greenfield. As a result, the City refrained from adopting its own ordinance for mandatory commercial recycling. However, the City moved forward with the implementation of its commercial recycling program while SVSWA considered this ordinance. Specifically, the City committed to adopting its own ordinance if SVSWA did not adopt an ordinance. In addition, in the week of November 2, 2009, the City's hauler began to visit each business not subscribing to recycling services, and asked them to voluntarily sign up for recycling services. The hauler also conducted these visits to determine what kind of recycling service each business needed in order to maximize the mandatory recycling ordinance once it took effect. Through these efforts, the City reported that an additional 29 of the City's businesses signed up for recycling services, and as a result, 136 of the City's 150 businesses were recycling.</p>

	<p>On January 27, 2010, the SVSWA Board adopted its ordinance for mandatory commercial recycling, and by February 5, 2010, the hauler had completed delivering recycling containers to all commercial establishments.</p> <p>The City's hauler collects and processes the City's commercial recyclables consistently.</p> <p>Businesses generally separate their materials effectively and provide recyclables with minimal contamination. However, some businesses use their recycling and garbage bins incorrectly, suggesting the need for ongoing outreach. Accordingly, SVSWA conducts audits of the commercial materials on the street and at the materials recovery facility to ensure that the City separates its materials properly.</p>
<i>Multifamily Diversion Program</i>	<p><i>Implemented.</i></p> <p>In July 2009, the City started a pilot recycling program at two multifamily complexes. In addition, on January 27, 2010, SVSWA adopted an ordinance for mandatory multifamily recycling, and this ordinance took effect on February 27, 2010.</p> <p>Staff found some contamination in the pilot programs' recycling and garbage bins. However, this does not significantly impact the City's overall diversion. Ongoing outreach can be an effective tool to attain even higher levels of diversion.</p>
<i>Construction and Demolition (C&D) Diversion Program</i>	<p><i>Implemented.</i></p> <p>The City adopted its C&D ordinance in September 2008 and continues to enforce it. Permittees must prove compliance with the ordinance in order to receive a Certificate of Occupancy or the final inspection. During Staff's plainclothes visit to request C&D information at City Hall, City staff provided complete information about the ordinance.</p> <p>There have only been 13 projects completed under this ordinance since the Compliance Order went into effect, and these projects have diverted 332.57 tons of C&D waste.</p>
<i>City Government Program</i>	<p><i>Implemented.</i></p> <p>The City has placed and is servicing recycling bins at its offices and facilities. These locations include the Civic Center, the City's Community Center, the library, and its public works yard.</p>

	<p>CalRecycle staff observed that the City government's recycling containers contained a small amount of clean recyclables.</p>
<i>Schools Diversion Program</i>	<p><i>Implemented.</i></p> <p>SVSWA and the City's hauler developed partnerships with all of the City's schools and began recycling programs at all of the City's schools. Staff noted the presence of small recycling bins in each classroom, and larger recycling bins in central locations, but these bins were all empty, because school was not in session. The schools report having saved \$12,000 through this program.</p>
<i>Tonnage Accuracy</i>	<p><i>Implemented.</i></p> <p>SVSWA found scale tickets showing that Greenfield's 2004 and 2005 reported disposal tonnages were 19 percent higher than they should have been; the scalehouse misallocated 1,151 tons and 1,456 tons to Greenfield in 2004 and 2005, respectively.</p> <p>Upon further investigation, SVSWA found that most of the unincorporated county's tonnage had used the City's code. To prevent future misallocation, SVSWA gave the unincorporated county a new code and has trained scale house operators to use the new code. SVSWA also continues to review tonnages to ensure that the proper codes are used.</p>
<i>Residential Diversion Program</i>	<p><i>Implemented.</i></p> <p>On January 27, 2010, SVSWA's Board approved an ordinance for mandatory residential recycling. This ordinance went into effect on February 27, 2010.</p> <p>CalRecycle staff's field observations found that almost all of the residents set out their recycling carts; on average, for every ten garbage carts set out, nine recycling carts and four greenwaste carts were set out.</p> <p>The curbside recyclables and greenwaste have minimal contamination. The City's hauler collects and processes each household's residential recyclables and yard waste once a week.</p> <p>The residents have been receiving education about this program. SVSWA sent brochures to all residents, and truck drivers put tags on contaminated carts and leave the</p>

	contaminated carts.
<i>Quarterly and Annual Reporting</i>	<i>Implemented.</i> The City's joint powers authority has maintained the City's Compliance Documentation Binder and has submitted all required quarterly and annual reports.

Overview of the Options CalRecycle has Regarding Compliance Orders

Determination of Completion

Once a jurisdiction has reported full implementation of all of the conditions and terms of a Compliance Order, CalRecycle has the following general responsibilities regarding the consideration of the completion of the Compliance Order:

CalRecycle shall hold a public hearing to determine whether or not the jurisdiction has fully implemented the Compliance Order (PRC Section 41850(a)). This includes, but is not limited to, determining if the jurisdiction has

- Made a good faith effort to fully implement all Local Implementation Plan and Source Reduction and Recycling Element selected programs (PRC Section 41850(b)); and
- Met the diversion requirements of PRC Section 41780 (PRC Section 41850(b)).

Penalty Structure

CalRecycle may impose fines only after a jurisdiction fails to adhere to the Compliance Order and/or schedule requirements. Fines may be levied according to the cause of failure to adequately implement a Source Reduction and Recycling Element and/or Household Hazardous Waste Element; staff would recommend to CalRecycle an appropriate level of penalty based on the criteria listed below.

1. "Serious" failure includes a jurisdiction that fails to implement its Source Reduction and Recycling Element or Household Hazardous Waste Element without reason or justification. The fine recommended for this type of violation would be no less than \$5,000 and up to the maximum \$10,000 per day.
2. "Moderate" failure includes a jurisdiction that fails to implement its Source Reduction and Recycling Element or Household Hazardous Waste Element due to mitigating circumstances that have no bearing on natural disasters, budgetary constraints and work stoppages. Mitigating circumstances would be determined on a case-by-case basis by CalRecycle. The fine recommended for this type of violation would be \$1,000 to \$5,000 per day.
3. "Minor" failure includes a jurisdiction that has implemented some or all programs, but has failed to meet the diversion requirements to some extent. Fines will be based

on information provided by the jurisdiction and on statutory relief considerations. Fines, if determined to be appropriate, will be decided by CalRecycle on a case-by-case basis, and would range from \$1 per day up to \$1,000 per day.

A jurisdiction may only be fined after failing to adhere to the Compliance Order and schedule. Fines will continue until a jurisdiction has implemented the programs as outlined in the Compliance Order.

Notwithstanding the above penalty structure, if CalRecycle determines, on a case-by-case basis, that a jurisdiction demonstrates that it has made a good faith effort to implement its Source Reduction and Recycling Element and/or Household Hazardous Waste Element, including achieving the diversion requirements, CalRecycle shall not impose penalties.

VII. ATTACHMENTS

1. Compliance Order IWMA BR09-002
2. Site Visit Photo Report
3. Local Implementation Plan
4. City of Greenfield Waste Diversion Program and Diversion Rate Summary
5. Request for Action for the Removal of Compliance Order IWMA BR09-002

VIII. STAFF RESPONSIBLE FOR ITEM PREPARATION

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